

No. 1057-4Lab-76/10022.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak in respect of the dispute between the workman and the management of M/s Arya Wood Co-operative Society, Halli Mandi, district Gurgaon.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT, HARYANA,
ROHRAK

Reference No. 2 of 1972

between

SHRI BANWARI LAL WORKMAN AND THE MANAGEMENT OF M/S. ARYA WOOD
CO-OPERATIVE SOCIETY, HALLI MANDI, DISTRICT GURGAON

AWARD

By order No. ID/FD/361-A-71/158, dated 4th January, 1972 the Governor of Haryana, referred the following dispute between the management of M/s Arya Wood Co-operative Society, Halli Mandi, district Gurgaon and its workman Shri Banwari Lal to this Labour Court, in exercise of the powers conferred by clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947.

Whether the termination of services of Shri Banwari Lal was justified and in order ? If not, to what relief is he entitled ?

The parties put in their appearance on 22nd May, 1973 in response to the usual notices of reference sent to them. The management however, absented themselves thenceforth and were proceeded with *ex parte*.

The workmen was directed to adduce his *ex parte* evidence on 16th February, 1976,—*vide* my order⁶ dated 22nd December, 1975. Neither he nor his authorised representative appeared on 16th February, 1976. The address supplied by the workman in the notice of demands is through Shri C. B. Kaushik his authorised representative who has since died. The workman has not supplied any other address for service of notice of reference on him.

I have under the circumstances no option but to decide this reference in absence of the parties while holding that there is now no dispute between them : equiring adjudication. I accordingly answer the reference while returning the award in terms of the findings made by me above.

Dated the 16th February, 1976.

MOHAN LAL JAIN,
Presiding Officer,
Labour Court, Rohtak.

Endorsement No. 496, dated the 20th February, 1976.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,
Presiding Officer,
Labour Court, Rohtak.

No. 1800-4Lab-76/10024.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak in respect of the dispute between the workmen and the management of M/s. Elson Cotton Mills, Mathura Road, Ballabgarh.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT, HARYANA,
ROHTAK

Reference No. 130 of 1972

between

SHRI MOHAN SINGH AND SORAN SNGH, WORKMEN AND THE MANAGEMENT OF
M/S. ELSOM COTTON MILLS, MATHURA ROAD, BALLABGARH.

AWARD

This award shall dispose of this reference and another reference No. 150 of 1972 between Soran Singh and h: management of M/s. Elson Cotton Mills, Mathura Road, Ballabgarh, as common question of facts and law

are involved therein. The Governor of Haryana referred the following dispute to this Labour Court for adjudication, in exercise of the powers conferred on him by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947.

Whether the termination of services of Shri Mohan Singh/Soran Singh was justified and in order ? If not, to what relief is he entitled ?

The parties put in their appearance in this Court in each case in response to the usual notices of reference sent to them.

The workman in each case alleged,—*vide* notice of demands raised on the management that his services had been terminated illegally by the later without assigning any reason and without holding an enquiry and that he was entitled to be reinstated with full back wages and continuity of service.

The management,—*vide* written statement filed by them of the statement of claim pleaded that the reference made to this court was bad in law in absence of any direct demand by the workman on them. On merits of the case they pleaded that each workman submitted his resignation on 29th November, 1971 and his accounts were accordingly settled in accordance with the request made by him.

The workman filed the rejoinder while controverting the pleas of the management. He stated that his signatures were obtained on a blank paper by the management who retrenched him illegally.

The following issues were thus framed on the pleas of the parties in each case.

Issues :—

- (1) Whether the signatures of Shri Soran Singh concerned workman were obtained by the management on a blank paper and resignation, dated the 29th November, 1971 was never submitted by him ?
- (2) Whether the concerned workman had first raised the demand on the management and the same had been rejected by it before the matter was taken up for conciliation ? If not to what effect ?
- (3) Whether the termination of services of Shri Soran Singh was justified and in order ? If not, to what relief is he entitled ?

I have heard the authorised representatives for the parties with reference to the evidence led by them. I decide the issues as under :—

Issue No. 1—

This is the most important issue in the case. As would appear from the form and framing of the issues, the burden to prove the plea giving rise to the issue was heavy on the workman. He examined Shri Rajinder Singh clerk of the office of the Labour Officer W.W. 1, and Shri Sharda Parshad Pandey W. W. 2, besides making his own statement in reference No. 130 of 1972. Shri Soran Singh also remained contended by making his own statement as W. W. 1 in reference No. 150 of 1972. Shri Rajinder Singh and Shri Sharda Parshad did not say a word relating to this issue and as such their evidence is liable to be ignored. Each one of the workmen Mohan Singh and Soran Singh however gave out that he used to put in overtime work as a carpenter and that the management often obtained his signatures on blank paper and subsequently prepared vouchers relating to the payment of overtime allowance while using these signatures. He denied to have submitted any resignation.

There is no corroboration of the statement of the workmen on record. It is on the other hand interesting to note that there is no allegation in the notice of demands served by him on the management in respect of the later having obtained his signatures on blank papers. The management on the other hand examined Shri Jawala Singh their Labour Officer M. W. 1 and Shri Devi Chand their Accountant M. W. 2. Shri Jawala Singh deposed that about 40 to 50 workmen including Mohan Singh and Soran Singh submitted their resignation with the request to him to settle their accounts, after the strike observed by them had been called off in the year 1971. He brought on record the original resignation Ex. M-1 in reference No. 130 of 1972 and M-2 in reference No. 150 of 1972 and proved vouchers M-2 to M-6 in reference No. 130 of 1972 and M-3 to M-5 in reference No. 150 of 1972 relating to the payment of retrenchment compensation, gratuity, ex-gratia payment etc. to each one of them in satisfaction of his full and final accounts. He added that Mohan Singh workman thumb-marked and Shri Soran Singh signed the respective vouchers and the resignation. Shri Devi Chand stated that he duly scrutinized the vouchers in each case while permitting the payment to the workman and that no payment could be made to any employee till it underwent his scrutiny and order in respect of its legality.

I find the case of the management well established in each case by the documentary and oral evidence led by them. I find it difficult to believe the solitary statement of the workman that his signatures were obtained on a blank paper by the management and the documents relied on by the later were fabricated by them. The absence

of such a plea in the notice of demands and the failure of the workman to file a statement of claim in respect of such allegations further lead to a presumption against him. It does not seem probable that the workman would pass on the signatures on a number of blank papers to the management without raising the least objection. I accordingly while relying on the evidence of Shri Jawala Singh duly corroborated by the documentary evidence and disbelieving the testimony of the workman hold and decide this issue against the later.

Issue No. 2.—

For the reasons stated by me in my order, dated 10th October, 1975 made in reference Shri S. C. Sehti Vs. M/s Kirlosker Oil Company, Mathura Road, Faridabad, I hold that it was no longer necessary for the workman to raise a demand directly on the management and for the later to reject it, before the matter was taken to the Conciliation Officer, in order to constitute an industrial dispute, I decide this issue accordingly.

Issue No. 3.—

It would appear from my finding made under issue No. 1 that this is not a case of termination of services of the workman by the management and that it is on the other hand a case of acceptance of the resignation of the former voluntarily made by him by the later and that the former is not entitled to any relief. I decide the issue accordingly.

I thus answer each reference while returning the award in terms of the findings made by me above.
Dated the 13th February, 1976.

MOHAN LAL JAIN,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 415, dated the 14th February, 1976.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment, Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947

MOHAN LAL JAIN,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 2452-4Lab-76/10026.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak in respect of the dispute between the workmen and the management of M/s Kalkaji Compressor Works (Prop. K. G. Khosla and Co. (P) Ltd.) Faridabad.

**BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT,
HARYANA, ROHTAK**

Reference No. 64 of 1971

between

**SHRI KISHORI LAL, WORKMAN AND MANAGEMENT OF M/S KALKAJI
COMPRESSOR WORKS (PROP. K. G. KHOSLA AND CO. (P) LTD.), FARIDABAD.**

AWARD

By order No. ID/16026, dated 27th May, 1971 the Governor of Haryana referred the following dispute between the management of M/s Kalkaji Compressor Works (Prop. K. G. Khosla & Co. (P) Ltd.), Faridabad and its workman Shri Kishori Lal to this Labour Court, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947.

Whether the termination of services of Shri Kishori Lal was justified and in order ? If not, to what relief is he entitled ?

The parties put in their appearance in response to the usual notices of reference sent to them and filed their pleadings giving rise to an issue framed as per dispute stated above.

The workman and his authorised representative Shri R. N. Roy absented themselves on 20th January, 1976, the date of hearing fixed in the case despite the later having been directed to appear on that date vide my order, dated 6th October, 1975 and file a letter of authority with the result that the *ex parte* proceedings were taken up against the workman. Shri R. K. Sachar had been appearing on behalf of the workman on 26th

July, 1975 and 24th July, 1975, the date of hearing fixed in the case prior to the hearing, dated 6th October, 1975. Shri Sagar Ram Gupta had been appearing on behalf of the workman on 23rd January, 1975, 28th February 1975 and 18th April, 1975 the dates of hearing fixed from time to time. It would further be of interest to note that one Shri Roshan Lal Sharma appeared for the workman on 24th October, 1974 and the dates of hearing prior thereto. All this would indicate that the workman never took any interest to pursue the demand raised by him on the management leading to this reference, despite opportunities being given to him time and again for taking necessary further steps in the matter. He had thus to be proceeded with *ex parte* unavoidably.

The management in *ex parte* evidence examined Shri K. N. Gulati, their Works Manager who proved the proceedings of the enquiry conducted by one Shri S. S. Sangha some times Personnel Officer of the management. He deposed that Shri S. S. Sangha continued to have serve the management till February, 1971 whereafter he left their service and was not available for evidence. He added that he well identified the hand writing of Shri S. S. Sangha and his signatures as he had seen him writing and signing often. He proved the charge sheets Ex. M-1 to M-3 served on the workman, to be under the signatures of Shri T. C. Vermani duly identified by him, the letter Ex. M-4 appointing Shri Sangha as the enquiry officer, Ex. M-5 to M-11, notices sent to the workman to participate in the enquiry, Ex. W. M-12 the proceedings of the enquiry and finding of the Enquiry Officer M-13 as correct. He deposed that the proceedings of the enquiry and the findings of the Enquiry were in the hand writing of Shri Sangha. He continued to say that the workman was dismissed by Shri T. C. Vermani the Works Manager under the Standing Orders of the Company Ex. M-15 while accepting the finding of the Enquiry Officer and that the application made earlier for approval of the action of the management in dismissing him had already been accepted by order, dated 4th September, 1970.

I have carefully seen the proceedings of the enquiry and the enquiry report besides the charge sheet framed against the workman. I find that the workman was charged,—*vide*

- (a) charge sheet, dated 17th June, 1969 for his failure to take proper interest in his work and disobedience of the orders of Shri V. K. Abrol, Assistant Engineer, on 11th June, 1969 and 12th June, 1969 by way of refusing to serve water to Shri V. K. Abrol, Assistant Engineer.
- (b) charge sheet, dated 27th June, 1969 for his having refused point blank to clean the table despite orders made to him for that purpose by Shri V. K. Abrol, Assistant Engineer and Shri V. K. Saxena, Incharge on 23rd June, 1969 and for his misbehaving with the later in an insolent manner.
- (c) charge sheet, dated 18th November, 1969 for his having refused to serve cool water to an important visitor on being asked to do so on 25th October, 1969 by Shri Ashok Kumar Saini, Technical Sales representative.

I find that the enquiry proceedings were taken in accordance with the principles of natural justice with an opportunity to the workman to participate therein which he failed to avail. I otherwise see no reason to disbelieve the statement of Shri K. N. Gulati particularly when the proceedings against the workman are *ex parte* and he has taken no care to pursue the demand raised by him. The acts of disobedience of the orders of the management by the workman amount to insubordination, neglect of duties and gross misconduct punishable with dismissal from service under the standing orders of the company.

Considered from any angle the management was fully justified in dismissing the workman from service and the workman is not entitled to any relief. I decide the issue in their favour.

I answer the reference while returning the award in terms of the findings made by me.

MOHAN LAL JAIN,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

Dated the 2nd March, 1976.

No. 647, dated 3rd March, 1976

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under Section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN
Presiding Officer,
Labour Court, Haryana,
Rohtak.